

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO.: 14-018025 CA 01

CATALINA ISLE TOWNHOMES
HOMEOWNERS' ASSOCIATION, INC., a
non-profit Florida corporation,

Plaintiff,

RM 1599

VS.

JUL 30 2014

MIAMI-DADE COUNTY, a Florida local government; and FERRO DEVELOPMENT, LLC, a Florida limited liability company;

1:45^f ☐ AM ☒ PM

Defendants.

RECEIVED
JUN 20 P 5 05
OFFICE OF THE MAYOR

ALIAS SUMMONS

THE STATE OF FLORIDA:
To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint in this lawsuit on Defendant:

Miami-Dade County
Dade County Mayor
111 NW 1st Street, Suite 2910
Miami, FL 33128

Each Defendant is required to serve written defenses to the Complaint on **SWIMMER & MOLDER, P.L.**, Plaintiff's attorney, whose address is **7990 SW 117TH Avenue, Suite 100, Miami, Florida 33183**, **jason@swimmermolder.com**, designated primary email for service pursuant to **Fla. R. Jud. Admin. 2.516**, within **20 days** after service of this summons on that Defendant, exclusive of the service, and to file the original of the defenses with the Clerk of this Court, either before service on Plaintiff's attorney or immediately thereafter. If the Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint or Petition.

DATED JUL 29 2014

CLERK OF THE CIRCUIT COURT

SHARON MOORE

By:

As Deputy Clerk

Received 8-1-14

Zoning - 04-54-39/12-128
- 2-6-14

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Summons
Page 2 of 3

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named below.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene 20 días, contados a partir del recibo de esta notificación, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefónica no lo protegerá. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el número del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, pudiese perder el caso y podría ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guía telefónica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, deberá usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont été entreprises contre vous. Vous avez 20 jours consécutifs à partir de la date de l'assignation de cette citation pour déposer une réponse écrite à la plainte ci-

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Summons
Page 3 of 3

jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes obliges de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

SWIMMER & MOLDER, PL

Attorneys for Plaintiff

7990 SW 117th Avenue, Suite 100

Miami, FL 33183

P: 305-274-1222 | F: 786-441-4394

Jason L. Molder, Esq.

Florida Bar No.: 0644897

jason@swimmermolder.com

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE No.: 14-019025 CA 01

CATALINA ISLE TOWNHOMES
HOMEOWNERS' ASSOCIATION, INC., a
non-profit Florida corporation,

Plaintiff,

vs.

MIAMI-DADE COUNTY, a Florida local
government; and FERRO
DEVELOPMENT, LLC, a Florida limited
liability company;

Defendants.

_____ /

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, Catalina Isle Townhomes Homeowners' Association, Inc. ("Catalina"), a Florida Not-For-Profit Corporation, by and through undersigned counsel, sues defendants, County of Miami-Dade, a Florida unincorporated county (the "County") and Ferro Development, LLC, a Florida limited liability company, pursuant to §163.3215, Florida Statute, and allege as follows:

NATURE OF THE ACTION

1. Plaintiff challenges the approval of Resolution No. Z-6-14 by the Miami-Dade County Board of County Commissioners of a development order (the "Development Order"), as defined by §163.3184, Fla. Stat. for the Ferro Development, LLC Special Exception to permit a Charter School (the "Development") as inconsistent with the County Comprehensive Master

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 2 of 17

Development Plan (the "Comprehensive Plan") See Res. No. Z-6-14 which has been attached as Exhibit "A". Said Development Order concerns property located south of SW 8th Street and between SW 152 Avenue and SW 153rd Place (the "Property"). The Development Order was rendered on or about June 22, 2014. This action is brought pursuant to §163.3215, Fla. Stat., to enjoin violations of the adopted and effective County Comprehensive Plan. Plaintiff seeks a declaration that said Development Order is inconsistent with the Comprehensive Plan, as well as state law, and a permanent injunction against any construction or related development activity pursuant to said Development Order.

2. The basis for Plaintiff's Challenge is that the Development Order:
 - a. Will adversely impact the interests of Catalina and its members' rights which are protected and furthered by the Comprehensive Plan, including interests related to transportation facilities; health and safety; and intensities of development.
 - b. Is inconsistent with the County's Comprehensive Plan; and
 - c. Harms Plaintiff to a greater degree than the larger community, based on the proximity of the Property to the Catalina homeowners real property, causing Plaintiff to seek a declaration and permanent injunction against the issuance of any development orders, permits and/or development approvals, in furtherance of Res. No. Z-6-14.

PARTIES AND STANDING

3. Catalina is a Florida not-for-profit corporation whose purposes include protecting the property rights of the members of its Association.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 3 of 17

4. Catalina is comprised of approximately one hundred twenty (120) homeowners, all of whom reside in or own property in the immediate vicinity of the Property.

5. Catalina maintains an office in Miami-Dade County located at 13055 SW 42nd Street, Suite 203, C/O M&E Associates, Miami, Florida 33175.

6. Pursuant to Florida law, Catalina has the power to institute, maintain and settle actions in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners. The type of relief sought by Catalina in this case is appropriate for the association to seek on behalf of its homeowners.

7. Catalina homeowners participated as a party to the proceeding before the County Board of County Commissioner's Meeting at which the Development Order for the Property was approved by the County.

8. Catalina is an aggrieved or adversely affected parties under Section 163.3215, Fla. Stat., in that its homeowners will suffer an adverse impact to an interest protected or furthered by the County's Comprehensive Plan, including interests related to safety, tranquility, character and the overall welfare of the neighborhood, which exceed in degree the general interest in community good shared by all persons in the County. Plaintiff has requisite standing to bring this suit.

9. Defendant, Miami-Dade County is an unincorporated county (local government) that is statutorily required to adopt and implement a local comprehensive plan and to ensure that all development orders approved by the County are consistent with its adopted Comprehensive Plan under Chapter 163, Part II, Florida Statutes (2013).

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 4 of 17

10. Defendant, Ferro Development, LLC, a Florida limited liability company is the owner of the property which is subject to the Development Order, which lies south of SW 8th Street and between SW 152 Avenue and SW 153 Place, in Miami-Dade County, Florida.

JURISDICTION AND VENUE

11. This Complaint for Declaratory and Injunctive Relief is filed pursuant to §163.3215(3), Fla. Stat., which authorizes actions for injunctive and other relief to prevent the issuance of development orders which are inconsistent with adopted local government comprehensive plans.

12. A Complaint pursuant to §163.3215, Fla. Stat., is the sole method available for challenging a development order for inconsistency with a local comprehensive plan.

13. The real property at issue lies south of SW 8th Street and between SW 152 Avenue and SW 153 Place, in Miami-Dade County, Florida. It is comprised of approximately 8.97 acres of land and is currently vacant land. The land at issue is designated BU-1A, Limited Business Zoning District and the Land Use designation is "Business and Office."

14. Pursuant to §163.3215(3), Fla. Stat. this Complaint is filed within 30 days of the rendition of the final action on the development order which occurred on June 22, 2014.

15. The Circuit Court has jurisdiction of the subject matter of this action pursuant to Florida Constitution, Article V, Section 20 and §§163.3215(5), 26.012(3), and 26.012 (2)(a), Fla. Stat.

16. Pursuant to §163.3215(5), Fla. Stat., venue in this action lies in Miami-Dade County because the challenged action was taken by the Miami-Dade County Board of County Commissioners and occurred within Miami-Dade County, Florida.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 5 of 17

17. This Court has jurisdiction to enter declaratory and injunctive relief pursuant to Chapter 86, Florida Statutes; Rule 1.610 Fla. R. Civ. P. and Fla. Stat. Sec. 163.3215(3).

THE DEVELOPMENT ORDER

18. The challenged Development Order is Resolution No. Z-6-14 - a Resolution approving a Special Exception to permit a charter school; a Special Exception to waive the spacing requirements; and delete Declaration of Restrictions requiring landscape buffers for the Property.

PROCEDURAL HISTORY

19. On May 22, 2014, at a quasi-judicial public hearing, the Miami-Dade County Board of County Commissioners approved Resolution No. Z-6-14 granting a Special Exception to permit a Charter School, waive the spacing requirements and delete Declaration of Restrictions requiring landscape buffers, for the Development Approval.

20. At said hearing, Catalina homeowners participated as parties and spoke in objection to the granting of the Development Order.

21. Despite sizable and substantive objections and numerous safety, traffic and intensity concerns raised, Resolution No. Z-6-14, permitting a Charter School, waiving spacing requirements and deleting Declaration of Restrictions requiring landscape buffers for the Development Approval, was approved by the Board of County Commissioners at the public hearing on May 22, 2014 and was thereafter filed and thus rendered by the County Clerk on June 10, 2014.

THE COMMUNITY PLANNING ACT

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 6 of 17

22. Chapter 163, Part II, Florida Statutes, The Community Planning Act (the “Act”), requires each local government in Florida to prepare and adopt a local comprehensive plan containing mandatory elements that govern future land uses, intensities and densities, appropriate buffers, transportation matters and other matters. §163.3161, *et. seq.*, Fla. Stat. The Act requires that, after a local government has adopted its comprehensive plan, all actions taken by the local government in regard to development orders and all development be consistent with the adopted local comprehensive plan and plan elements thereof. §§161.3161(6)-(7) and §§161.3194(1)(a).

23. The Act defines “development order” as any order any order granting, denying, or granting with conditions an application for a development permit. §163.3164(15) Fla. Stat. The Act defines a “Development permit” as “any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.” §163.3164(16).

24. The challenged Development Order constitutes a development order under the Act.

25. The Act provides for citizen enforcement of the consistency requirement. Sections 163.3215(1) and (3), Fla. Stat. provide that “any aggrieved or adversely affected party” may bring a civil action for declaratory, injunctive or any other relief against any local government to prevent the local government “from taking action on a development order, as defined in §163.3164, which materially alters the use or density or intensity of use” on property in a manner that is inconsistent with the adopted local comprehensive plan.

26. The standard of review when examining whether a development order is consistent with the local comprehensive plan is one of strict scrutiny. *Machado v. Musgrove*, 519

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 7 of 17

So. 2d 629, 633 (Fla. 3d DCA 1987). Strict scrutiny, as defined by the *Machado* court, is based on the meaning of the two words: "Strict implies rigid exactness or precision. A thing scrutinized has been subjected to minute investigation. Strict scrutiny is thus the process whereby a court makes a detailed examination of a statute, rule or order of a tribunal for exact compliance with, or adherence to, a standard or norm. It is the antithesis of deferential review." *Machado*, 519 So. 2d at 632.

**THE DEVELOPMENT ORDER IS INCONSISTENT
WITH MIAMI-DADE COUNTY'S COMPREHENSIVE PLAN**

27. The Development Order is inconsistent with and violates the duly adopted County Comprehensive Master Development Plan as a whole, and in particular, with the following provisions:

28. Land Use Element Policy LU-4A requires that "when evaluating compatibility among proximate land uses, the County **shall** consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.

29. Moreover, Policy LU-4C requires that "[r]esidential neighborhoods **shall be protected from intrusion by uses that would disrupt or degrade the health, safety, tranquility, character, and overall welfare of the neighborhood** by creating such impacts as **excessive density, noise, light, glare, odor, vibration, dust or traffic**.

30. Policy LU-4D also requires that "[u]ses which are *supportive* but *potentially incompatible* shall be permitted on sites within functional neighborhoods, communities or

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 8 of 17

districts only where proper design solutions can and will be used to integrate the compatible and complementary elements and buffer any potentially incompatible elements.”

31. It is abundantly clear, upon review of the County staff's analysis, public records and a record of the public hearing, that insufficient consideration was given to the potential impacts of the Development Order on Catalina homeowners. The Development Order anticipates a Charter School with 3,000 students (in phases) on a parcel of land which is less than 9 acres. *See* Miami-Dade County Department of Regulatory and Economic Resources Staff Report to the Development Impact Committee, which has been attached as Exhibit “B”. The Development Order approves a large school on the Property which will house some 3,000 elementary, middle and high school students. Upon review of the site location and adjacent uses, it is apparent that the County did not consider the potential impacts of noise and other factors of the Development Order on Catalina, as required by the County Comprehensive Plan.

32. Moreover, the Property abuts and is immediately to the north of Catalina homeowner properties. County Board of County Commissioners and County staff inexplicably concluded that a minimal 40 foot setback from Catalina homeowner lot lines was a sufficient amount of distance to place a school of that magnitude from residential homes.

33. In addition, the County failed to consider the safety concerns of neighboring Catalina residents whose lot lines are a mere 40 feet from the structure approved in the Development Order, where such neighborhoods are not closed off in any way or secured by a gate. The Development Approval and associated site plans do not contemplate any safety measures to ensure that students will not trespass onto private property a mere 40 feet away as a means to shorten their walking route to and from school.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 9 of 17

34. Most alarming, however, was the determination that 10 feet of landscape buffering would be sufficient to shield a school housing 3,000 students from neighboring residential lots a mere 40 feet away from the Charter School.

35. Section 163.3194(3)(a), F.S. provides that a “development order...shall be **consistent** with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted...**are compatible with and further the objectives, policies, land uses and densities or intensities** in the comprehensive plan **and if it meets all other criteria enumerated** by the local government.” (emphasis supplied).

36. For the aforementioned reasons and in light of the County’s Comprehensive Plan requirement to consider the compatibility of proximate land uses, the Development Order is in conflict with and does not further the objectives and policies of the County Comprehensive Plan. The County did not consider factors such as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety in considering this Special Exception application.

37. The Development Order is likewise inconsistent with Policy LU-4C, which requires that residential neighborhoods **shall** be protected from intrusion by uses that would disrupt or degrade the healthy, safety, tranquility, character and overall welfare of the neighborhood. The County ignored the minimal buffer and the Development Approval offers no mitigation to maintain the tranquility, character and overall welfare of the neighborhood abutting the Development Approval lot.

38. Catalina homeowners have lots abutting the Property and there are no safeguards to ensure that students will not cut through residential neighborhoods while walking to and from

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 10 of 17

school. The lack of any security measures to prevent students from trespassing onto Catalina homeowners' property; coupled with the anticipated noise, dust during construction and traffic associated with a project of this magnitude, will undoubtedly disrupt the neighboring residents.

39. The Charter School incorporated into the Development Order will unquestionably disrupt and degrade the safety, tranquility, character and overall welfare of the neighborhood due to the size of the school and its proximity to hundreds of residential homes, some of which are located only 40 feet away from the structure proposed.

40. Put simply, placing a school of this size in such close proximity to residential homes ignores the County Comprehensive Plan requirements to protect residential neighborhoods from development which disrupts and degrades the overall character of the neighborhood.

41. The Development Approval is also inconsistent with Policy LU-4D which requires uses which are "*supportive but potentially incompatible*" to be permitted only on sites where proper design is implemented. This policy requires that land uses integrate "compatible" and "complementary" elements and buffer any incompatible elements. The County's refusal to impose an appropriate setback or larger buffer area between the Charter School and the adjacent residential lots demonstrates that they have not adequately buffered the potential incompatible elements (i.e. noise, traffic and other factors).

42. Thus, the Development Order is inconsistent with Policy LU-4D.

43. The Development Order is also in contravention with the landscape buffering requirements of LU-4A, LU-4C and LU-4D, as demonstrated by the deletion of Declaration of Restrictions, which imposed a landscape buffer in excess of what has currently been approved in

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 11 of 17

Res. No. Z-6-14. *See* Declaration of Restrictions recorded at OR 26712, Page 0892, which has been attached as Exhibit "C."

44. It is important to understand that the imposed landscape buffering requirements which the County has now deleted, were initially imposed in a prior approval which allowed the Developer/Defendant to change the land use from RU-3M (Residential) to BU-1A (Limited Business District). *See* Res. No. CZAB10-41-08, which is attached as Exhibit "D." In other words, as a condition to permit a zoning change from Residential (which is the use surrounding the Development Approval site) to Limited Business, the County required a minimum landscape buffering of 15 feet wide.

45. The Developer/Defendant has evaded the condition by requesting that it be deleted in order to fit the structure on the parcel. Where the County's intent was clear that the initial zoning change (from Residential to Limited Business) was permitted on the basis of this specific landscape buffering condition, it is now inconsistent and in conflict with the County Comprehensive Plan to lift such buffering for the purpose of constructing a large school which will sit literally 40 feet from Catalina homeowner lot lines.

COUNT I: DECLARATORY RELIEF
**(INCONSISTENCY WITH COUNTY COMPREHENSIVE
MASTER DEVELOPMENT PLAN)**

46. Plaintiff readopts and re-alleges paragraphs 1 – 45, as if set forth and incorporated herein and further states, by virtue of the disputes between the parties, a justiciable issue has arisen creating a bona fide, actual controversy that invokes the Declaratory powers of this Court pursuant to Chapter 86, Florida Statutes.

47. This is an action for declaratory judgment under §163.3215 *et. al.*, Fla. Stat.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 12 of 17

48. Resolution No. Z-6-14 is a development order under §163.3215 *et. al.*, Fla. Stat.

49. A controversy has arisen between the Plaintiff and Defendants resulting in the Plaintiffs being in doubt of their rights.

50. The Development Approval which allows a large school to be constructed forty feet from Catalina homeowner lot lines, materially disrupts the health, safety, tranquility, character, and overall welfare of the neighborhood.

51. Defendant County's approval of the school and deletion of buffering requirements are inconsistent with the following objectives and policies of the County's Plan as previously detailed, for the following reasons:

52. The County failed to evaluate the proposed development contrary to stated goals, objectives and policies of the Plan, and in particular Land Use Elements LU-4A, LU-4C and LU-4D regarding compatibility of development with adjacent residential neighborhoods and proximate land uses.

53. Disregarding the prior approval (Res. No. CZAB10-41-08) which imposed a minimum landscape buffer of 15 feet which was a basis for approving a land use change from Residential to Limited Business (permitting the Special Exception for the school to be sought), the County approved a deletion of restrictions which removed that necessary and appropriate minimum buffer, in violation of the intent of the original approval.

54. The County ignored significant safety concerns raised by neighboring Catalina residents, whose property is not in any way enclosed, secured, or protected, from trespassing or other activities which will disrupt the safety, tranquility, character, and overall welfare of the neighborhood.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 13 of 17

55. Policy LU-4D requires that where uses may be potentially incompatible, that such uses are permitted only where proper design solutions integrate the compatible and complementary elements and buffer any potentially incompatible elements.

56. The County ignored this required policy and did not address the matter when it approved the development at its May 22, 2014 meeting.

57. The County wrongly contends that its action in approving the Special Exception and deletions to the Restrictive Covenants is consistent with the County's Plan because it is not consistent with the provisions cited herein.

58. There is a bona fide present and practical need for a declaration as the Development Order will adversely impact Catalina as set forth herein.

59. A declaration regarding these adverse interests is appropriate in light of conflicting positions concerning whether the Charter School should be built. The Development Order affects the property rights and interest of Catalina homeowners as an adjacent property owner and interested party.

60. Plaintiff has no adequate remedy at law, and there is an actual, practical and present need for declaratory judgment.

61. Pursuant to Chapter 86, Florida Statutes, this court has jurisdiction to declare rights or other equitable or legal relations between these parties.

62. Plaintiff, Catalina, represents homeowners who live in properties adjacent to the Property and have an interest in the development and its impact on the safety, tranquility, character, and overall welfare of the neighborhood.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 14 of 17

63. Plaintiff request this Court to settle and afford relief from insecurity and uncertainty with respect to their rights and status regarding the Development Order contrary to the County's Comprehensive Plan.

64. Plaintiff seeks a declaration regarding the validity of the Development Order. No other legal remedy is available to Plaintiff in the resolution of this controversy.

WHEREFORE, Plaintiff requests the court: (1) enter judgment declaring that the County acted contrary to the requirements of the County Comprehensive Plan when it approved Res. No. Z-6-14 granting a Special Exception to construct a charter school; a Special Exception to waive the spacing requirement for new charter school facilities from the Urban Development Boundary ("UDB"); and deleting Declaration of Restriction requirements which impose a minimum landscape buffer for the subject property lying south of SW 8th Street and between SW152 Avenue and SW 153 Place; (2) Reverse, set aside and vacate the development order; (3) Award costs of this action to Plaintiff; and (4) grant Plaintiff such other and further relief as the court may deem just, proper and necessary.

COUNT II: INJUNCTIVE RELIEF
(THE DEVELOPMENT ORDER AND APPROVED DEVELOPMENT ARE
INCONSISTENT WITH THE COUNTY PLAN AND VIOLATE § 163.3215 ET. AL.,
FLA. STAT.)

65. Plaintiff realleges and incorporates the allegations in paragraphs 1-64 above.

66. Plaintiff requests the court grant an injunction enjoining the County from further processing or issuing any development permits allowing construction pursuant to Resolution No. Z-6-14 at south of SW 8th Street and between SW 152 Avenue and SW 153 Place.

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 15 of 17

67. This is a count for permanent injunctive relief to enjoin the implementation of the Development Order which is the subject of this action.

68. Unless restrained Defendant County will issue further development permits authorizing the development of the subject property pursuant to the Development Order in violation of the Comprehensive Plan.

69. Immediate and irreparable injury, loss and damage will result to Plaintiff by this action of the County because intense development forty feet from Catalina homeowners' property will ensue and create conflict between these incompatible uses of land. This will reduce the value of the Catalina homeowners' properties, will create a serious safety concern and will negatively impact and disrupt the tranquility, character, and overall welfare of the neighborhood.

70. The public interest is clearly served when a County is required to follow its own laws and regulations, including its comprehensive plan and land development regulations.

71. This action is the Plaintiff's remedy at law as set forth in Section 163.3215(3), Fla. Stats.

72. All conditions precedent to the maintenance of this action have been satisfied by Plaintiff or have been waived by the conduct of the County.

WHEREFORE, Plaintiff request the court (1) issue a permanent injunction against the issuance of any development orders, permits, and/or other development approvals pursuant to the development order for the subject project – Resolution No. Z-6-14; (2) Enjoin Defendant Ferro Development, LLC and all persons acting under it from using said property or making improvements thereon in furtherance of the Development Order; (3) award costs of this action to

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 16 of 17

petitioners; and (4) grant Plaintiff such other and further relief as it may deem just, proper and necessary.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED this 10th day of July, 2014.

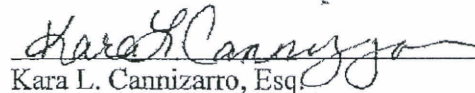
Swimmer & Molder, PL

Counsel for Plaintiff

7990 SW 117th Avenue, Suite 100

Miami, Florida 33183

T: (305) 274-1222 / F: (786) 441-4394



Kara L. Cannizarro, Esq.

Fla. Bar No. 18017

kara@swimmermolder.com

*Catalina Isle Townhomes Homeowners' Association, Inc. vs.
County of Miami-Dade and Ferro Development, LLC*

Complaint for Declaratory and Injunctive Relief
Page 17 of 17

I hereby affirm that the facts stated herein are true and correct to the best of my knowledge.

DATED this 10th day of July, 2014.

Swimmer & Molder, PL
Counsel for Plaintiff
7990 SW 117th Avenue, Suite 100
Miami, Florida 33183
T: (305) 274-1222 / F: (786) 441-4394



Kara L. Cannizarro, Esq.
Fla. Bar No. 18017
kara@swimmermolder.com

EXHIBIT "A"

Approved: _____ Mayor

Veto: _____

Override: _____

RESOLUTION NO. Z-6-14

WHEREAS, FERRO DEVELOPMENT, LLC. applied for the following:

- (1) SPECIAL EXCEPTION to permit a charter school.
- (2) SPECIAL EXCEPTION to waive the spacing requirements for new charter school facilities from the Urban Development Boundary (UDB) to permit:

A senior high school within 1 mile of the UDB.
A middle school within ½ mile of the UDB.
A kindergarten and elementary school within a ¼ mile of the UDB.
- (3) DELETION of a Declaration of Restrictions, recorded in Official Record Book 26712, Pages 0892-900.

The purpose of Request #3 is to delete a declaration of restriction requiring a landscape buffer and permit the applicant to submit a new site plan for a proposed charter school.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Pinecrest Academy" as prepared by CIVICA, dated stamped received 9/12/13 and consisting of 14 sheets. Plans may be modified at public hearing.

SUBJECT PROPERTY: Portion of Tracts 53 and 54 of the Supplemental Map No. 1 of the LANDS OF THE MIAMI EVERGLADES LAND CO. LTD, PB 3-39 described as follows: That portion of the East ¾ of the SW ¼ in 4-54-39, less the West 989.93 ft., the South 880 ft. and less the East 35 ft., which lies South of the Southerly right-of-way line of State Road No. 90 (U.S. 41) A.K.A. TAMiami TRAIL.

LOCATION: Lying on the South side of SW 8 Street and between SW 152 Avenue and SW 153 Place, MIAMI-DADE COUNTY, FLORIDA, and

WHEREAS, a public hearing of the Board of County Commissioners was advertised and held, as required by the Zoning Procedure Ordinance, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter and the recommendation of the Development Impact Committee, it is the opinion of this Board that the requested special exception to permit a charter school (Item #1), and the special exception to waive the spacing requirements for new charter school facilities from the Urban Development Boundary (UDB) (Item #2), and the requested deletion of a Declaration of Restrictions, recorded in Official Record Book 26712, Pages 0892-900 (Item #3) would be compatible with the area and its development and would be in harmony with the general purpose and intent of the regulations and would conform with the requirements and intent of the Zoning Procedure Ordinance and would be consistent with the Comprehensive Development Master Plan, and and that the requested special exceptions (Items #1 and #2) would not have an adverse impact upon the public interest and should be approved, and

WHEREAS, a motion to approve Items #1 through #3, was offered by Commissioner Audrey M. Edmonson, seconded by Commissioner Lynda Bell, and upon a poll of the members present the vote was as follows:

Bruno A. Barreiro	absent	Barbara J. Jordan	absent
Lynda Bell	aye	Jean Monestime	aye
Esteban Bovo, Jr.	aye	Dennis C. Moss	absent
Jose "Pepe" Diaz	aye	Sen. Javier D. Souto	aye
Audrey M. Edmonson	aye	Xavier L. Suarez	nay
Sally A. Heyman	absent	Juan C. Zapata	nay
	Rebecca Sosa	aye	

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Miami-Dade County, Florida, that the requested special exception to permit a charter school (Item #1), and the special exception to waive the spacing requirements for new charter school facilities from the Urban Development Boundary (UDB) (Item #2) be and the same are hereby approved, subject to the following conditions:

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Pinecrest Academy" as prepared by CIVICA, dated stamped received 9/12/13 and consisting of 14 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submits to the Department of Regulatory and Economic Resources for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Occupancy.
5. That the applicant shall comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the Public Works and Waste Management Department as may be contained in its memorandum dated, 04/01/14.
6. That prior to expanding above 2,100 students, the applicant must obtain a conditional release memo authorizing the expansion from both PWWM and RER as contained in the PWWM memorandum dated April 1, 2014. The purpose of this memorandum is to confirm that all roadways, intersections and side streets that may be blocked by a queue are operating at acceptable school's AM and PM Levels of Service.
7. That the Traffic Operation Plan (TOP) dated March 13, 2014, must be revised to reflect the conditionally allowable (K-12th) student enrollment of 2,100 to arrive and dismiss within the three (3) proposed shifts.
8. That the applicant shall provide an annual traffic report, to be submitted to, and reviewed by PWWM and RER prior to the issuance of the annual Certificate of Use that verifies compliance with the approved TOP.
9. That the applicant comply with all the applicable conditions, requirements, recommendations, requests and other provisions of the Division of Environmental Resources of the Department of Regulatory and Economic Resources as contained in its memorandum dated February 28, 2014.
10. That the applicant comply with all the applicable conditions, requirements, recommendations, requests and other provisions of the Miami-Dade Police Department as contained in its memorandum dated November 21, 2012.
11. That the landscaping and wall abutting the residential uses located to the south be installed prior to the issuance of a Certificate of Use for the building completed in phase 1 of the development.

12. That the school gates be opened at least 45 minutes prior to the arrival and dismissal times.
13. That the northbound left turn lane improvements along the portion of SW 152 Avenue abutting the school property be installed prior to the issuance of a Certificate of Use for the building completed in phase 1 of the development.
14. That the charter school use be limited to grades Kindergarten through 12th and be limited to a maximum of 3,000 students.
15. That there will be staggered shifts at arrival/dismissal times for students at the charter school, separated by a minimum of 30 minutes. The arrival and dismissal times shall be as follows:

Arrival Times

7:30 a.m. to 8:00 a.m.
8:00 a.m. to 8:30 a.m.
8:30 a.m. to 9:00 a.m.

Departure Times

2:30 p.m. to 3:00 p.m.
3:30 p.m. to 4:00 p.m.
3:00 p.m. to 3:30 p.m.

Grades 9-12
Grades 6-8
Grades K-5

16. That the owner shall have trained personnel on site to manage the traffic operations during the arrival and dismissal period.
17. That in coordination with the MDPD, the owner shall provide school crossing guards on the appropriate streets surrounding the school as necessary during start and dismissal times.
18. That police control at the intersection of SW 10 Street and SW 153 Place and at the site driveway number 2 is required.
19. That a minimum of 20% of all students attending the school be required to be bussed to and from the school.
20. That at time of yearly renewal of Certificate of Use, the applicant shall submit to the Department of Regulatory and Economic Resources a letter from the principal of the school detailing the number of students and the grade levels that are currently enrolled in said facility.
21. That the applicant shall provide an annual traffic report to be submitted and reviewed by the Public Works and Waste Management Department and the Department of Regulatory and Economic Resources prior to the issuance of the annual Certificate of Use, that verifies compliance with the approved TOP.
22. That at the time of Certificate of Use renewal and with each subsequent renewal, the owner shall submit to the Department of Regulatory and Economic Resources a letter or approved form from the Public Works and Waste Management Department showing that the school facility is in compliance with the traffic impact study and the Traffic Operations Plan (TOP) that was submitted as part of the hearing application.

23. That no outside speakers other than in connection with emergency systems shall be permitted on the property.
24. That the waste pick-up for the charter school shall be performed by a private commercial entity and shall be limited to pick-up between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except during arrival and dismissal times.
25. That night activities and/or special events shall be limited to twelve (12) events per year and shall end no later than 10:00 PM.
26. That the outside lighting shall be permitted with the proper shielding according to Miami-Dade County Code.
27. That if the charter school fails after establishment, the owner, within thirty-six months of the charter school's closure shall:
 - a. Cause the charter school to be in full compliance with all zoning regulations applicable to the Property allowing a use other than the charter school.
 - b. Transfer the opinion of the charter school to another charter school operator or to the Miami-Dade County School Board after securing the necessary approvals from the Miami-Dade School Board; or
 - c. Convert the charter school to a permitted use within the zoning district applicable to the property, provided said use has first been authorized through the issuance of the appropriate permits from the Department; or
 - d. Secure necessary public hearing approvals to convert the charter school to a use not otherwise permitted within the zoning district applicable to the property.

BE IT FURTHER RESOLVED that the requested deletion of a Declaration of Restrictions, recorded in Official Record Book 26712, Pages 0892-900 (Item #3) be and the same is hereby approved.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary notations upon the maps and records of the Miami-Dade County Department of Regulatory and Economic Resources and to issue all permits in accordance with the terms and conditions of this resolution.

THIS RESOLUTION HAS BEEN DULY PASSED AND ADOPTED this 22ND day of May, 2014, and shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

No. 14-4-CC-2
rd

HARVEY RUVIN, Clerk
Board of County Commissioners
Miami-Dade County, Florida

By CHRISTOPHER AGRIPPA
Deputy Clerk

THIS RESOLUTION WAS TRANSMITTED TO THE CLERK OF THE BOARD OF COUNTY COMMISSIONERS ON THE 10TH DAY OF JUNE, 2014.

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, Rosa Davis as Deputy Clerk for the Miami-Dade County Department of Regulatory and Economic Resources as designated by the Director of the Miami-Dade County Department of Regulatory and Economic Resources and Ex-Officio Secretary of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. Z-6-14 adopted by said Board of County Commissioners at its meeting held on the 22nd day of May, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this the 10th day of June, 2014.



Rosa Davis, Deputy Clerk (218345)
Miami-Dade County Department of Regulatory and
Economic Resources

SEAL





Department of Regulatory and Economic Resources
Development Services Division
111 NW 1st Street • Suite 1110
Miami, Florida 33128-1902
T 305-375-2640
www.miamidade.gov/economy

June 10, 2014

Ferro Development, LLC.
c/o Miguel Diaz de la Portilla
200 S. Biscayne Blvd, Suite 3600
Miami, FL 33131

Re: Hearing No. 14-4-CC-2 (12-128)
Location: South Side of SW 8 Street & Between SW 152 Avenue and SW 153 Place, Miami-Dade
County, Florida.

Dear Applicant:

Enclosed herewith is Resolution No. Z-6-10, adopted by the by the Board of County Commissioners which **approved your application on the above described property**. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If stipulated in the resolution that building permits and/or use, occupancy or completion certifies will be required, please note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certifies(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates may be subject to annual renewal by this Department. Application for required permits and/of certificates related to use, occupancy or completion should be made with this Department as appropriate. At time of permit application you must provide a copy of this resolution.

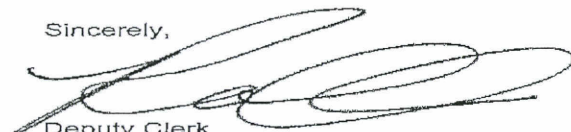
If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, in as much as building permits will not be issued prior to the approval of said plan.

The Board's decision may be appealed by an aggrieved party to Circuit Court within 30 days of the date of transmittal of the resolution to the Clerk of the Count Commission. The transmittal date is **June 10, 2014**. In the event an appeal is filed, any building permit sought shall be at the risk of the party seeking said permit. Copies of any court filings concerning this matter should be served upon both my office and:

R.A. Cuevas, Jr.,
County Attorney
111 N.W. 1st Street, Suite 2811
Miami, Florida 33128-1993

The County Attorney is not permitted to accept official service of process.

Sincerely,



Deputy Clerk

Enclosure

EXHIBIT "B"

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to the Development Impact Committee**

PH: Z12-128

DIC Date: March 21, 2014

Recommendation Summary	
Commission District	11
Applicant	Ferro Development, LLC
Summary of Requests	The applicant seeks to permit a charter school for 3,000 students.
Location	Lying south of SW 8 Street and between SW 152 Avenue and SW 153 Place, Miami-Dade County, Florida.
Property Size	8.97 acres
Existing Zoning	BU-1A, Limited Business District
Existing Land Use	Vacant
2020-2030 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with the LUP map, and the interpretative text and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-303.1(D)(7) Developmental Impact Committee, Section 33-311(A)(3), Special Exception, Unusual use and New Uses, Section 33-311(A)(7) Generalized Modification Standards (see attached Zoning Recommendation Addendum)
Recommendation	Approval with conditions

REQUESTS:

1. SPECIAL EXCEPTION to permit a charter school.
2. SPECIAL EXCEPTION to waive the spacing requirement for new charter school facilities from the Urban Development Boundary (UDB) to permit:
 - A senior high school within 1 mile of the UDB.
 - A middle school within ½ mile of the UDB.
 - A kindergarten, elementary school within a ¼ mile of the UDB.
3. DELETION of Declaration of Restrictions, recorded in Official Record Book 26712, Pages 0892 – 900.

The purpose of request #3 is to delete a declaration of restriction requiring a landscape buffer and permit the applicant submit a new site plan for a proposed charter school..

Plans are on file and may be examined in the Department of Regulatory and Economic Resources entitled "Pinecrest Academy" as prepared by CIVICA, dated stamped received 9/12/13 and consisting of 14 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

Pursuant to Resolution # CZAB10-41-08, the subject property was approved to permit a district boundary change from RU-3M, Minimum Apartment House District to BU-1A, Limited Business District. The applicant at that time proffered a Declaration of Restrictions which among other things required that a 15' wide landscape buffer be provided along the southern and western

perimeters of the subject property which should include tress from a variety of categories. The applicant now seeks approval of a charter school for 3,000 students from kindergarten to 12th grade in place of the previously approved commercial development.

The submitted plans depict the proposed kindergarten through 12th grade charter school for up to 3,000 students on the 8.97-acre subject property abutting SW 8 Street (Tamiami Trail) located to the north. In addition, staff notes that Tamiami Trail abuts a portion of the Urban Development Boundary (UDB) which runs east/west and parallel to this roadway in this area of the County.

The plans indicate the phased development of the proposed school comprised of four (4) buildings partially arranged around and buffering the playground areas from the Tamiami Trail to the north. Three (3) of the buildings will be three (3)-stories high at a maximum height of 50' and the gym to be located in the southwest corner of the parcel will be only one-story. The phased development of the site will comprise Phase 1, a 3-story, 67,800 sq. ft. classroom building fronting onto SW 152 Avenue; Phase 2, consists of a 42,000 sq. ft., 3-story classroom building; Phase 3, is a 3-story, 46,800 sq. ft. classroom building along with a 14,000 sq. ft., 2-story cafeteria annex and Phase 4 is the 8,800 sq. ft. one-story gym to be located in the southwest corner of the site abutting SW 153 Place. The plans indicate that the buildings will be interconnected by a covered walkway that also encircles the main playfield area located central to the site that will be buffered from the surrounding roadways, Tamiami Trail, SW 152 Avenue and SW 153 Place by the proposed buildings. Said plans also indicate that combined with a continuous row of trees, the walkway will also visually buffer the playfield area from the residential development located to the south.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-1A; vacant land	Business and Office
North	GU; vacant land	Open Land
South	RU-3M; townhomes	Low-Medium Density Residential (6-13 dua)
East	RU-3M; townhouses	Low-Medium Density Residential (6-13 dua)
West	RU-3M; townhouses	Low-Medium Density Residential (6-13 dua)

NEIGHBORHOOD COMPATIBILITY:

The 8.97-acre subject property is a vacant parcel surrounded by residential uses to the east, south and west. The properties to the north are vacant and are located outside the UDB.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to provide the community with additional education services for up to 3,000 students. However, since the site is vacant the proposed development of the vacant site could have visual, aural and traffic impacts on the surrounding residential developments in this area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The CDMP Land Use Plan (LUP) map designates the 8.97-acre subject property that is located within the Urban Development Boundary (UDB), south of SW 8 Street and between SW 152 Avenue and SW 153 Place for **Business and Office** use. The UDB is located approximately 0.31 miles to the west of the subject parcel and runs along the north side of SW 8 Street which abuts the subject property to the north. The Business and Office category *accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic.*

Additionally, the CDMP Land Use Element interpretative text for Institutions, Utilities and Communications states that *neighborhood or community-serving institutional uses, cell towers and utilities including **schools**, libraries, sanitary sewer pump stations and fire and rescue facilities in particular, and cemeteries may be approved where compatible in all urban land use categories, in keeping with any conditions specified in the applicable category, and where provided in certain Open Land subareas. For the reasons that will be further explained below, staff opines that the proposed charter school meets the criteria for compatibility outlined in that Land Use Element Policy LU-4A.*

The CDMP Land Use Element **Objective LU-4** requires the County to *reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and the interpretative text, or with the character of the surrounding community.* Staff notes that **Land Use Element Policy LU-4A** sets forth the criteria to determine compatibility and states that *when evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.* The proposed charter school abuts residential developments to the south, east and west. Additionally, staff notes that the submitted plans for this application depict the proposed phased development of the charter school with adequate landscaping and buffering elements to mitigate any visual or aural impact on the abutting residences to the south, east and west. The submitted plans indicate that the proposed school buildings will setback at least 40' from the rear (south) property line abutting the closest residential development to the site and will be adequately buffered by a minimum 10' wide landscape buffer consisting of a row of trees, 12' high at the time of planting and a continuous hedge along said property line. In addition, the play area that is also located central to the site will be surrounded by the buildings on all sides except the south side, which will abut a covered walkway that abuts a separate row of trees along the south side of the walkway. Therefore, staff opines that any visual or aural impact of the play areas on the residences to the south will be adequately mitigated by the covered

walkway and the dual row of trees between the play area and the rear (south) property line abutting the residences.

Staff notes that to mitigate any potential traffic impact the charter school will be required to comply with the Traffic Operations Plan (TOP) and have three (3) staggered arrival and dismissal times separated by a minimum of twenty (20) minutes. The applicant has submitted a TOP indicating a thirty (30) minute separation between the arrival and dismissal times for the proposed charter school for 3,000 students. However, based on the comments outlined in the Public Works and Waste Management's (PWWM), Traffic Engineering Division memorandum dated April 1, 2014, staff opines that the approval of the charter school to accommodate 3,000 students would be too intensive and would be incompatible with the surrounding area based on the criteria outlined in the **CDMP Land Use Element Policy LU-4A**. Said memorandum recommended approval of the application, subject to the fulfillment of requirements outlined in its memorandum; and that prior to the expansion of the school above 2,100 students, the applicant must obtain a conditional release memorandum authorizing the expansion from both the PWWM and the Department of Regulatory and Economic Resources (RER) as contained in said memorandum. Said memorandum also requires the applicant to provide a revised TOP for 2,100 students based on the conditions outlined for a phased expansion of the charter school. As such, staff opines that with these and other conditions that will be outlined, approval with conditions of the proposed charter school would be **compatible** with the surrounding area based on the **Land Use Element Policy LU-4A** compatibility criteria.

The applicant is also requesting to permit a kindergarten through high school charter school within a 1/4 mile of the Urban Development Boundary (UDB). The **CDMP Educational Element Policy EDU-3A** states that new elementary schools should be located at least 1/4 mile inside the UDB; middle schools should be located at least 1/2 mile inside the UDB and new senior high schools should be located at least one (1) mile inside the UDB. Further, said Policy states that in substantially developed areas of the County where suitable sites in full conformance with the foregoing are not available and a site or portion of a site for a new school must encroach closer to the UDB, the majority of the site should conform with the foregoing location criteria and the principal school buildings and entrances should be placed as far as functionally practical from the UDB.

The proposed charter school comprised of grades K through 12 does not meet the criteria of **Educational Element Policy EDU-3A**, because the charter school will be located less than a quarter-mile from and inside the UDB which runs parallel to the abutting roadway located to the north of the subject property. However, staff notes that the applicant has submitted documentation regarding the proximity of the charter school to the UDB, which is located to the north of the subject site. The applicant indicates that the majority of the parcels located within a mile of the subject site are developed or approved for development and that no other site located at least one (1) mile from the UDB that would be suitable for the proposed charter school comprised of elementary, middle and high school use. The site plan submitted in conjunction with this application depicts a U-shaped building with the main entrances to the school located on the east and west elevations away from the UDB. Staff opines that the design of the building and location of the entrances away from the UDB is consistent with **Educational Element Policy EDU-3A** which states that *the principal school buildings and entrances should be placed as far as functionally possible from the UDB*.

Based on the foregoing analysis, staff opines that the approval with conditions of the application which would allow the development of the charter school for elementary, middle and high school

students less than required from the UDB would be **compatible** with the area based on the criteria outlined in CDMP Land Use Element **Objective LU-4** and would be **consistent** with the CDMP **Educational Element Policy EDU-3A** and therefore **consistent** with the CDMP Land Use Plan map **Business and Office** designation for the subject property.

ZONING ANALYSIS:

When analyzing request #1 to permit a charter school and request #2, to waive the space requirement for new charter school facilities from the Urban Development Boundary (UDB) in order to permit the facility containing grades from kindergarten to 12th grade under Section 33-311(A)(3) **Special Exceptions**, Unusual Uses and New Uses, based on the foregoing analysis, staff is of the opinion that the approval of the requests with conditions would be **compatible** with the surrounding area. Further, staff opines that based on the memoranda submitted by the departments reviewing the application, approval of the requests would not have an unfavorable effect on the economy of Miami-Dade County, will not tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people. The Division of Environmental Resources Management of the Department of Regulatory and Economic Resources memorandum indicates that approval will not result in a reduction in the LOS standards for potable water service, wastewater disposal, or stormwater management. Additionally the memorandum from the Miami-Dade Fire Rescue Department does not indicate that the expansion will have a negative impact on fire rescue services in the area. Staff notes that the memoranda submitted by the Departments of Park, Recreation and Open Spaces, Water and Sewer, and Transit indicate no objection to the application. Based on the aforementioned department memoranda, staff opines that the requests will not result in, among other things, excessive noise or cause undue or excessive burden on public facilities.

As part of this application, the applicant submitted a Technical Memorandum, Traffic Impact Study, Site plans and a School Traffic Operations Plan for the Traffic Engineering Division (TED) of the Public Works and Waste Management (PWWM) to review. The applicants have indicated that the proposed 400 students will be distributed in the following manner: grades Kindergarten – 5th = 1,200 students, grades 6th – 8th = 200 students and grades 9th – 12th = 1,200 students. The submitted Traffic Impact Study indicates that the applicants will utilize a staggered start in order to accommodate the increase in student count. Staff opines that the proposed three (3) staggered arrival and dismissal times separated by thirty (30) minutes will help to alleviate any potential increase in traffic in the surrounding area. The submitted study details how the arrival and dismissal times will function. The applicant's Trip Generation Study indicates that the proposed charter school will generate 5,702 less daily trips during an average weekday condition than the shopping center that was previously approved on the parcel pursuant to Resolution #CZAB10-41-08. According to the study, the shopping center would have generated between 11,791 and 13,142 daily trips, between 265 and 290 AM peak hour trips and between 1,024 and 1,083 PM peak hour trips.

The PWWM has indicated in its memorandum dated April 1, 2014, that the TOP submitted by the applicant on March 13, 2014 must be revised to reflect the conditionally allowed student enrollment of 2,100 to arrive and dismiss within the three (3) proposed shifts. Further, its memorandum states that the application will generate 510 PM Peak Hour trips based on the Institute of Traffic Engineering (ITE) standards and will not exceed the Level of Service (LOS) on the surrounding roadways which currently range between LOS "C" and LOS "D". Therefore, its memorandum indicated that the application meets the Traffic Concurrency criteria. However, said Department indicated in its memorandum certain requirements that need to be met by the

applicant among which are that a declaration of restrictions in favor of Miami-Dade County Public Works and Waste Management Department must be recorded in the official records of Miami-Dade County prior to the date of the school opening; roadway shall be constructed prior to the school opening, the school must operate a minimum of 12 bus trips to fulfill the 20% student body bussing stated within the traffic study and police control at the intersection of SW 10 Street and SW 153 Place and at the site driveway #2 is required in addition to SW 8 Street access.

Additionally, the PWWM expressed some concerns with the site plans including the proposed right-turn bay in Driveway 1 and the two-lane, one-way cross section for by-pass operations adjacent to the passenger loading zone area. Based on the information and conditions outlined in its memorandum, the PWWM recommended approval of the application, subject to the fulfillment of requirements outlined in its memorandum; and that prior to the expansion of the school above 2,100 students, the applicant must obtain a conditional release memorandum authorizing the expansion from both the PWWM and the Department of Regulatory and Economic Resources (RER) as contained in said memorandum. Therefore, based on the aforementioned analysis, staff opines approval with conditions of the application would not have a negative impact on traffic on the abutting roadways and would be **compatible** with the surrounding area.

The applicant's request to waive the spacing requirement for new charter school facilities from the Urban Development Boundary (UDB) (request #2) must also be analyzed under the Limitations on the Siting of Public Charter School Facilities, Section 33-154(c), of the Code. Said regulations require the applicant to demonstrate that within a half-mile radius of the outer boundaries of the proposed new school or expansion that: (1) the majority of the lots lying within the radius are developed or are approved for development, and (2) there are no other lots within the radius that are available for development that meet the requirements of a minimum distance of one mile from the UDB.

Additionally, Section 33-154(c) requires that the majority of the site, the proposed buildings' ground floor square footage and the building and entrances into the buildings are required to be located as far as practicably possible from the UDB. As previously noted, the submitted plans depict the U-shaped building with the main entrances to the school located on the east and west elevations away from the UDB. Staff opines that in addition to satisfying the CDMP Educational Policy requirement, the siting of the entrances to the school as far away as physically possible from the UDB also meets the requirement of Section 33-154(c) of the Code.

Staff notes also that the applicant has submitted documentation regarding the proximity of the charter school to the UDB, which runs parallel to the roadway abutting the north property line of the subject site. The applicant indicated that the majority of the parcels located within a half-mile of the subject site are developed or approved for development and that there is no other site located at least one (1) mile from the UDB that would be suitable for the expansion of the existing charter school use. **As such, staff opines that the request #2 to permit a charter high school within one-mile of the UDB; to permit a charter middle school within a ½ mile of the UDB and to permit an elementary charter school within a ¼ mile of the UDB, meets the requirements of Section 33-154(c) and recommends approval with conditions.**

Therefore, when considering the necessity for and reasonableness of the applied for use in relation to the present and future development of the area and the compatibility of the applied for use with the area and its development, staff opines that the proposed charter school is

compatible with the same based on the reasons stated above. As such, staff recommends approval with conditions of request #1 and #2 under Section 33-311(A)(3) Special Exceptions, Unusual Uses and New Uses.

The applicant also seeks approval to delete a previously recorded declaration of restrictions (request #3) in order to remove a requirement for a 15' wide landscape buffer along the south and western property lines. This would allow the applicant to submit plans for the charter school showing a 10' wide landscape buffer along the rear (south) property line for the proposed charter school. When this request is analyzed under Section 33-311(A)(7), Generalized Modification Standards staff opines that for the reasons previously stated, approval would be **compatible** with the residential uses in the surrounding area. Further, based on the memoranda from the Departments reviewing the application including the Miami-Dade Fire Rescue and other departments, approval of the application will not generate excessive noise, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned. **Based on the aforementioned, staff recommends approval with conditions of request #3 under Section 33-311(A)(7) Generalized Modification Standards.**

ACCESS, CIRCULATION AND PARKING: The submitted plans indicate three (3) ingress/egress drives along the western property line abutting SW 153 Court and one (1) emergency vehicle ingress/egress gate along the eastern property line abutting SW 152 Avenue. The applicant has provided 9 more parking spaces than the required 274 parking spaces for the 3,000 students and staff of the proposed charter school. Additionally, the submitted plans indicate 98 stacking spaces for the drop off and pick-up of students within the subject property which staff opines is adequate to accommodate the number of students and staff.

NEIGHBORHOOD SERVICES PROVIDER REVIEW:

Aviation

The Miami-Dade County Aviation Department (MDAD) has no objections to this application.

Division of Environmental Resources Management (Department of Regulatory and Economic Resources)

The Division of Environmental Resource Management (DERM) does not object to this application subject to conditions after a review for compliance with the requirements of Chapter 24 of the Code of Miami-Dade County.

The DERM memorandum states that a concurrency review has been conducted for this application and has determined that the same meets all applicable LOS standards for an initial development order, as specified in the adopted CDMP for potable water supply, wastewater disposal, and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein. Its memorandum indicates that the property is located within the Miami-Dade Water and Sewer Department's water and sewer franchised service areas. The DERM memorandum indicates that the subject property is located within the Bird Drive Wetland Basin and is a wetland as defined in Section 24-5 of the Code; therefore, a Class IV Wetland Permit will be required before any work can be done on the subject property. Said memorandum also states that a Berm with the minimum elevation of

+8.60 feet NGVD along the property lines with equivalent grading to match the required berm elevation at all roadway entrances shall be provided. Its memorandum further indicates that the applicant is required to comply with the tree permitting requirements and must meet the standards of Section 24.49.9 of the Code that includes the submittal of a tree survey.

Miami-Dade Fire Rescue

The Miami-Dade Fire Rescue Department (MDFRD) does not object to this application.

Its memorandum indicates that the proposed development could generate approximately 117 fire and rescue calls annually. The department states that the estimated number of alarms would result in a moderate impact to the existing fire and rescue service and current stations serving the area will be able to handle the additional number of alarms. The average travel time to the vicinity of the proposed development is 4:54 minutes (based on 2012 data). Travel time to the vicinity of the proposed development complies with the national performance objective.

Miami-Dade Police Department

The Miami-Dade Police Department (MDPD) does not object to this application. Its memorandum indicated that based on data pertaining to the charter school, it cannot be projected as to any increase in calls for service. However, the MDPD memorandum indicates that experience lends itself to anticipate that when additional citizens are present in the area, traffic increases, truants may be present and calls for service may rise. The MDPD memorandum also stated that current staffing should accommodate any slight increase in the volume of calls for service. Its memorandum also encouraged the applicant and developers to work with police during any future application, design or construction changes to determine the best possible solutions or security options.

Miami-Dade Transit

The Miami-Dade Transit Department (MDT) has no objections to this application.

Its memorandum indicates that the proposed development meets the mass transit Level-Of-Service standards established for Miami-Dade County. The MDT indicates in its memorandum that there is no direct transit service currently serving this site. However, its memorandum indicates that the planned transit improvements as identified in the 2023 Recommended Service Plan will accommodate the transit demand generated by the proposed development.

Parks, Recreation and Open Spaces

The Miami-Dade Parks, Recreation and Open Spaces Department (MDPROS) does not object to this application.

The MDPROS indicates in its memorandum that the application does not generate any residential population applicable to CDMP Open Space Spatial Standards; therefore, the Department has no pertinent comments concerning impact or demand on existing County parks.

Public Works and Waste Management Department (Traffic Engineering Division):

The Public Works and Waste Management Department (Traffic Engineering Division) recommends approval of the application, subject to the fulfillment of requirements outlined in its memorandum; and that prior to the expansion of the school above 2,100 students, the applicant must obtain a conditional release memorandum authorizing the expansion from both the PWWM and the Department of Regulatory and Economic Resources (RER) as contained in its memorandum dated April 1, 2014. Said memorandum also requires the applicant to

provide a revised TOP for 2,100 students based on the conditions outlined for a phased expansion of the charter school.

Its memorandum indicates that the anticipated trip generation based on ITE is 510 PM Peak Hour trips generated by this development; however, the traffic distribution of these trips will not exceed the acceptable Levels of Service (LOS) on the surrounding roadways. According to the CDMP the peak period means the average of the two (2) average consecutive hours of traffic volume during the weekday, which is the PM peak hour.

- SW 8 Street east of Krome Avenue will remain at LOS "C".
- SW 8 Street east of SW 147 Avenue will remain at LOS "D".
- SW 152 Avenue south of SW 8 Street will remain at LOS "C".
- SW 72 Street west of SW 157 Avenue will remain at LOS "D".
- SW 157 Avenue north of Kendall Drive will remain at LOS "C".

Its memorandum further states that the subject property will require platting in accordance with Chapter 28 of the Miami-Dade County Code.

As a condition for approval also, the PWWM requires that prior to expanding above 2,100 students, the applicant must obtain a conditional release memo authorizing the expansion from both PWWM and RER as contained in the PWWM memorandum dated April 1, 2014. The purpose of this memorandum is to confirm that all roadways, intersections and side streets that may be blocked by a queue are operating at acceptable school's AM and PM Levels of Service. The PWWM has indicated in its memorandum dated April 1, 2014, that the applicant must provide a revised TOP for 2,100 students based on the conditions outlined for a phased expansion of the charter school. However, said Department indicated in its memorandum that a declaration of restrictions in favor of Miami-Dade County PWWM Department must be recorded in the official records of Miami-Dade County prior to the date of the school opening; off-site improvements shall be constructed prior to the school opening, the school must operate a minimum of 12 bus trips to fulfill the 20% student body bussing stated within the traffic study, and police control at the intersection of SW 10 Street and SW 153 Place and at the site driveway #2 is required in addition to SW 8 Street access.

Additionally, the PWWM expressed some concerns with the site plans including the proposed right-turn bay in Driveway 1 and the two-lane, one-way cross section for by-pass operations adjacent to the passenger loading zone area.

Public Works and Waste Management Department (Fiscal, Planning and Performance Management Division)

The Public Works and Waste Management Department, Fiscal, Planning and Performance Management Division does not object to this application.

Its memorandum indicates that the school will likely be considered a commercial establishment per Chapter 15 of the County Code. The PWWM memorandum indicates that the Department does not actively compete for commercial waste collection service at this time and that waste collection services may be provided by a private hauler, therefore, this application will have no impact or any associated costs.

Water and Sewer Department

The Miami-Dade County Water and Sewer Department (MDWASD), has no objections to this application subject to the conditions outlined in its memorandum dated September 26, 2013. Its memorandum indicates that the subject property is located within the MDWASD service area for water and sewer services within the Urban Development Boundary (UDB).

Miami-Dade County Public Schools

The Miami-Dade County Public Schools does not object to this application.

Its memorandum indicates that the contract status for the charter school has been approved and is awaiting final execution. .

OTHER: Not applicable.

RECOMMENDATION:
Approval with conditions.

CONDITIONS FOR APPROVAL :

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "Pinecrest Academy" as prepared by CIVICA, dated stamped received 9/12/13 and consisting of 14 sheets.
3. That the use be established and maintained in accordance with the approved plan.
4. That the applicant submits to the Department of Regulatory and Economic Resources for its review and approval a landscaping plan which indicates the type and size of plant material prior to the issuance of a building permit and to be installed prior to the issuance of a Certificate of Occupancy.
5. That the applicant shall comply with all of the applicable conditions, requirements, recommendations, requests and other provisions of the Public Works and Waste Management Department as may be contained in its memorandum dated, 04/01/14.
6. That prior to expanding above 2,100 students, the applicant must obtain a conditional release memo authorizing the expansion from both PWWM and RER as contained in the PWWM memorandum dated April 1, 2014. The purpose of this memorandum is to confirm that all roadways, intersections and side streets that may be blocked by a queue are operating at acceptable school's AM and PM Levels of Service.

7. That the Traffic Operation Plan (TOP) dated March 13, 2014, must be revised to reflect the conditionally allowable (K-12th) student enrollment of 2,100 to arrive and dismiss within the three (3) proposed shifts.
8. That the applicant shall provide an annual traffic report, to be submitted to, and reviewed by PWWM and RER prior to the issuance of the annual Certificate of Use that verifies compliance with the approved TOP.
9. That the applicant comply with all the applicable conditions, requirements, recommendations, requests and other provisions of the Division of Environmental Resources of the Department of Regulatory and Economic Resources as contained in its memorandum dated February 28, 2014.
10. That the applicant comply with all the applicable conditions, requirements, recommendations, requests and other provisions of the Miami-Dade Police Department as contained in its memorandum dated November 21, 2012.
11. That the landscaping and wall abutting the residential uses located to the south be installed prior to the issuance of a Certificate of Use for the building completed in phase 1 of the development.
12. That the school gates be opened at least 45 minutes prior to the arrival and dismissal times.
13. That the northbound left turn lane improvements along the portion of SW 152 Avenue abutting the school property be installed prior to the issuance of a Certificate of Use for the building completed in phase 1 of the development.
14. That the charter school use be limited to grades Kindergarten through 12th and be limited to a maximum of 3,000 students.
15. That there will be staggered shifts at arrival/dismissal times for students at the charter school, separated by a minimum of 30 minutes. The arrival and dismissal times shall be as follows:

Arrival Times

7:30 a.m. to 8:00 a.m.
8:00 a.m. to 8:30 a.m.
8:30 a.m. to 9:00 a.m.

Departure Times

2:30 p.m. to 3:00 p.m.	Grades 9-12
3:30 p.m. to 4:00 p.m.	Grades 6-8
3:00 p.m. to 3:30 p.m.	Grades K-5

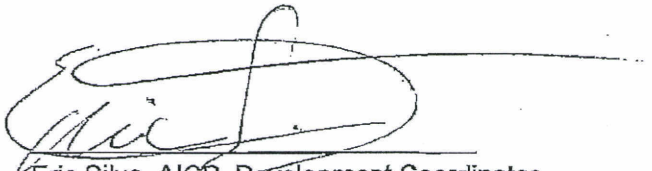
16. That the owner shall have trained personnel on site to manage the traffic operations during the arrival and dismissal period.
17. That in coordination with the MDPD, the owner shall provide school crossing guards on the appropriate streets surrounding the school as necessary during start and dismissal times.

18. That police control at the intersection of SW 10 Street and SW 153 Place and at the site driveway number 2 is required.
19. That a minimum of 20% of all students attending the school be required to be bussed to and from the school.
20. That at time of yearly renewal of Certificate of Use, the applicant shall submit to the Department of Regulatory and Economic Resources a letter from the principal of the school detailing the number of students and the grade levels that are currently enrolled in said facility.
21. That the applicant shall provide an annual traffic report to be submitted and reviewed by the Public Works and Waste Management Department and the Department of Regulatory and Economic Resources prior to the issuance of the annual Certificate of Use, that verifies compliance with the approved TOP.
22. That at the time of Certificate of Use renewal and with each subsequent renewal, the owner shall submit to the Department of Regulatory and Economic Resources a letter or approved form from the Public Works and Waste Management Department showing that the school facility is in compliance with the traffic impact study and the Traffic Operations Plan (TOP) that was submitted as part of the hearing application.
23. That no outside speakers other than in connection with emergency systems shall be permitted on the property.
24. That the waste pick-up for the charter school shall be performed by a private commercial entity and shall be limited to pick-up between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except during arrival and dismissal times.
25. That night activities and/or special events shall be limited to twelve (12) events per year and shall end no later than 10:00 PM.
26. That the outside lighting shall be permitted with the proper shielding according to Miami-Dade County Code.
27. That if the charter school fails after establishment, the owner, within thirty-six months of the charter school's closure shall:
 - a) Cause the charter school to be in full compliance with all zoning regulations applicable to the Property allowing a use other than the charter school.
 - b) Transfer the opinion of the charter school to another charter school operator or to the Miami-Dade County School Board after securing the necessary approvals from the Miami-Dade School Board; or
 - c) Convert the charter school to a permitted use within the zoning district applicable to the property, provided said use has first been authorized through the issuance of the appropriate permits from the Department; or

Ferro Development, LLC
Z12-128
Page | 13

- d) Secure necessary public hearing approvals to convert the charter school to a use not otherwise permitted within the zoning district applicable to the property.

ES:MW:NN:JV:CH



Eric Silva, AICP, Development Coordinator
Development Services Division
Miami-Dade County
Department of Regulatory and Economic Resources

ZONING RECOMMENDATION ADDENDUM

Ferro Development, LLC
Z12-128

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Division of Environmental Resource Management (RER)	No objection
Public Works and Waste Management (Traffic Engineering Division)	Pending
Public Works and Waste Management (Waste Operations)	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Aviation	No objection
Schools	No objection
*Subject to conditions in their memorandum.	

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

Business and Office (Page I-41)	<i>This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas. Also allowed are telecommunication facilities (earth stations for satellite communication carriers, satellite terminal stations, communications telemetry facilities and satellite tracking stations). These uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly compatibility with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be limited when necessary to protect both adjacent and adjoining residential use from such impacts as noise or traffic, and in most wellfield protection areas uses are prohibited that involved the use, handling, storage, generation or disposal of hazardous material or waste, and may have limitations as to the maximum buildable area, as defined in Chapter 24 of the County Code. When the land development regulations are amended pursuant to Land Use Element Policies LU-9P and LU-9Q, live-work and work-live developments shall be permitted on land designated as Business and Office, as transitional uses between commercial and residential areas.</i>
Institutions, Utilities and Communications (Pg. I-53)	<i>Neighborhood or community-serving institutional uses, cell towers and utilities including schools, libraries, sanitary sewer pump stations and fire and rescue facilities in particular, and cemeteries may be approved where compatible in all urban land use categories, in keeping with any conditions specified in the applicable category, and where provided in certain Open Land subareas. Compatibility shall be determined in accordance to Policy LU-4A. Co-location of communication and utility facilities are encouraged. Major utility and communication facilities should generally be guided away from residential areas; however, when considering such approvals, the County shall consider such factors as the type of function involved, the public need, existing land use patterns in the area and alternative locations for the facility. All approvals must be consistent with the goals, objectives and policies of the Comprehensive Development Master Plan.</i>

ZONING RECOMMENDATION ADDENDUM

Ferro Development, LLC
Z12-128

Educational Element Policy EDU-3A (Pg. X-5)	<p>It is the policy of Miami-Dade County that the Miami-Dade County Public Schools shall not purchase sites for schools nor build new schools outside of the Urban Development Boundary (UDB), and that new elementary schools constructed should be located at least 1/4 mile inside the UDB; new middle schools should be located at least 1/2 mile inside the UDB, and; new senior high schools should be located at least one mile inside the UDB. In substantially developed areas of the County where suitable sites in full conformance with the foregoing are not available and a site or portion of a site for a new school must encroach closer to the UDB, the majority of the site should conform with the foregoing location criteria and the principal school buildings and entrances should be placed as far as functionally practical from the UDB. The same criteria of this paragraph that apply to public schools also pertain to private schools.</p>
Land Use Policy LU-4A (Page I-11)	<p>When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.</p>

PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311(A)(3) Special Exception, Unusual and New Uses	<p>Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.</p>
Non-Use Variances From Other Than Airport Regulations. Section 33-311(A)(4)(b)	<p>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.</p>
Section 33-311(A)(7) Generalized Modification Standards	<p>The Board shall hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.</p>

ZONING RECOMMENDATION ADDENDUM

Ferro Development, LLC
Z12-128

33-153 Public hearing required in all districts	The establishment, expansion or modification of a charter school facility is permitted in any zoning district after public hearing upon demonstration that the standards established in this article have been met. Any existing covenant or declaration of restrictions relating to an existing charter school facility shall be modified or deleted only in accordance with the provisions of Article XXXVI of this code.
33-154 Limitations on the siting of public charter school facilities	<p>a) New kindergarten, elementary, middle and senior high charter school facilities as well as the expansion of existing charter school facilities shall be prohibited on sites located outside the Urban Development Boundary (UDB), as established in the Comprehensive Development Master Plan.</p> <p>(b) Except as provided in subsection (c) below, the following new charter school facilities and the expansion of such facilities shall be located inside the UDB and spaced from the UDB as follows:</p> <ul style="list-style-type: none"> (1) Kindergarten, Elementary school: at least ¼ mile inside the UDB (2) Middle school: at least ½ mile inside the UDB (3) Senior high school: at least one mile inside the UDB. <p>(c) A proposed new kindergarten, elementary, middle, or senior high charter school facility, or the expansion of an existing charter school site, inside but closer to the UDB than indicated in (b) above, may be approved at public hearing, when it is demonstrated that within a one-half mile radius of the outer boundaries of the proposed new charter school or charter school expansion site:</p> <ul style="list-style-type: none"> (1) that the majority of the lots, parcels or tracts lying within the radius are developed or approved for development; and (2) there are no other lots, parcels or tracts within the radius that are available for development that meet the requirements of subsection (b) above and that meet all the requirements of this article. <p>Approval of such a site shall require that the majority of the subject site and the proposed buildings' ground floor square footage be located in accordance with (b) above, and that the principal buildings and entrances be placed as far from the UDB as possible.</p> <p>(d) For purposes of establishing the distances provided by this section, the applicant shall furnish a certified survey from a registered surveyor, as well as a proposed site plan, which shall indicate that the distance requirements of this section have been met.</p>
33-314(C)(11) Direct applications to the County Commission	<p>(C) The County Commission shall have jurisdiction to directly hear other applications as follows:</p> <ul style="list-style-type: none"> (11) Hear application for and, upon recommendation of the Developmental Impact Committee, grant or deny those special exceptions for public charter school facilities permitted by the regulations only upon approval after public hearing, provided the applied for special exception, in the opinion of the Board of County Commissioners, is found to be in compliance with the standards contained in Article XI and <u>Section 33-311(A)(3)</u> of this code.

ZONING RECOMMENDATION ADDENDUM

*Ferro Development, LLC
Z12-128*

33-314(C)(12) <i>Direct applications to the County Commission</i>	<i>C) The County Commission shall have jurisdiction to directly hear other applications as follows: (12) Applications for public charter school facilities and expansions or modifications to existing public charter school facilities.</i>
33-303.1(D)(19) <i>Developmental Impact Committee</i>	<i>Review and make recommendations to the Board of County Commissioners on all applications for public charter school facilities and all applications for expansions or modifications to existing public charter school facilities.</i>

EXHIBIT "C"

CZ-B 10-41-08



CFN 2009R0016714
OR 8k 26712 Pgs 0892 - 9001 (9pgs)
RECORDED 01/09/2009 10:13:43
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

This instrument was prepared by:

Name: Miguel Diaz de la Portilla, Esq.
Address: Becker & Poliakoff, P.A.
121 Alhambra Plaza, 10th Floor
Coral Gables, Florida 33134

A/10

(Space reserved for Clerk of the Court)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owner holds the fee simple title to the land in Miami-Dade County, Florida described in Exhibit "A," attached hereto, and hereafter called the "Property," which is supported by the attorney's opinion attached as Exhibit "B," and

IN ORDER TO ASSURE the County that representations made by the Owner during consideration of Public Hearing No. 08-034 will be abided by the Owner freely, voluntarily and without duress, make the following Declaration of Restrictions covering and running with the Property:

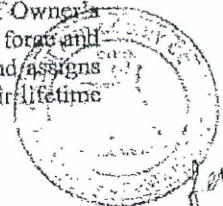
1). Landscape Buffer: A landscape buffer will be provided along the Southern and Western perimeters of the property. The buffer will be 15' wide; and will include trees from any of the following categories:

- a. *Duranta repens*/golden dewdrop: 8' high at planting
- b. *Tabebuia Caraiba* or *heterophylla*/yellow/pink *tabebuia*
10' high at time of planting
- c. *Lysiloma sabicu*/tamarind: 12'-15' high at planting
- d. *Casasia clusiifolia*/seven-year apple: 8' high at
planting
- e. *Conocarpus erectus*/silver buttonwood: 10'-12' high at
planting
- f. *Cordial sebestena*/Geiger tree (orange): 10'-12' high at
time of planting

The trees will be staggered in double rows and installed at a 20' spacing between trees.

2). County Inspection: As further part of this Declaration, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

3). Covenant Running With the Land: This Declaration on the part of the Owners shall constitute a covenant running with the land and may be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida and shall remain full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime



shall be for the same benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

4). Term: This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, thereafter, unless an instrument executed by the, then, owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has been first modified released by Miami-Dade County.

5). Modification, Amendment, Release: This Declaration of Restrictions may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the, then, owner(s) of all the Property, including jointers of all mortgagees, if any, provided that the same is also approved by the Board of County Commissioners or Community Zoning Appeals Board of Miami-Dade County, Florida, whichever by law has jurisdiction over such matters, after public hearing. Should this Declaration of Restrictions be so modified, amended or released, the Director of the Miami-Dade County Department of Planning and Zoning, or the executive officer of the successor of such Department, or in the absence of such director or executive officer by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

6). Enforcement: Enforcement shall be by action against any parties or persons violating, or attempting to violate any covenants. The prevailing party in any action or suit pertaining to or arising out of this Declaration, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the service of his attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

7). Authorization for Miami-Dade County to Withhold Permits and Inspections: In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the County is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.

8). Elections of Remedies: All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

9). Presumption of Compliance: Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the County, and inspections made and approval of occupancy given by the County, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of the Declaration.

10). Severability: Invalidation of any one of these covenants, by judgment of Court, shall not affect any of the other provisions which shall remain in full force and effect.

11). Recording: This Declaration shall be filed of record in the public records

of Miami-Dade County, Florida at the cost of the Owners following the approval of the Application. This Declaration shall become effective immediately upon recordation. Notwithstanding the previous sentence, if any appeal is filed, and the disposition of such appeal results in the denial of the application, in its entirety, then this Declaration shall be null and void and of no further effect. Upon the disposition of an appeal that results in the denial of the Application, in its entirety, and upon written request, the Director of the Planning and Zoning Department or the executive officer of the successor of said department, or in the absence of such director or executive officer by his/her assistant in charge of the office in his/her absence, shall forthwith execute a written instrument, in recordable form, acknowledging that this Declaration is null and void and of no further effect.

Signed, sealed and acknowledged on this 13 day of November, 2008.

Witnesses:

Signature

Print Name

Signature

Print Name

FERRO DEVELOPMENT LLC, a
Florida limited liability company

Address:

8165 N.W. 155th Street
Hialeah, FL 33016

By: Ferro Development Corp.
(Managing Member)

By:

Mario Ferro, Jr., President

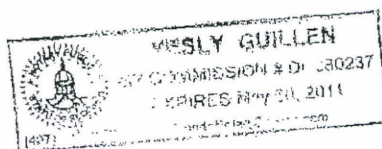
STATE OF FLORIDA)

) ss:

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me by Mario Ferro, Jr., the President of Ferro Development Corp., a Florida corporation and Manager of Ferro Development, LLC, a Florida limited liability company, on behalf of the LLC. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 13 day of November, 2008 in the County and State aforesaid.



NOTARY PUBLIC, State of Florida

Print: Wesley Guillen

My Commission Expires: May 30, 2011

EXHIBIT "D"

RESOLUTION NO. CZAB10-41-08

WHEREAS, FERRO DEVELOPMENT L. L. C. applied for the following:

- (1) RU-3M to BU-1A
- (2) DELETION of Declaration of Restrictions recorded in Official Record Book 20979, Page 997-1004, last modified by a Declaration of Restrictions recorded in Official Record Book 22176, Pages 2700-2704.
- (3) DELETION of the Covenant Proviso accepted pursuant to Resolution No. CZAB10-13-07, passed and adopted by Community Zoning Appeals Board #10, which accepted a proffered Declaration of Restrictive Covenant, hereinafter the "covenant proviso" as follows:

"BE IT FURTHER RESOLVED that, pursuant to §33-6 of the Code of Miami-Dade County, Florida. The county hereby accepts the proffered Declaration of Restrictive Covenants and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive then the applicable zoning regulations."

The purpose of requests #2 and #3 is to delete a covenant requiring the owner to apply for an Administrative Site Plan Review and comply with the Developmental Impact Committee requirements, if needed, and to delete a covenant proviso tying the site to a residential development, to permit development of the site according to the regulations of the proposed zoning district.

Upon a demonstration that the applicable standards have been satisfied, approval of requests #2 and #3 may be considered under §33-311(A)(7) (Generalized Modification Standards) or §33-311(A)(17) (Modification or Elimination of Conditions or Covenants After Public Hearing).

SUBJECT PROPERTY: That portion of Tracts 53 and 54, of the Supplemental Map #1 of THE LAND OF THE MIAMI EVERGLADES LAND CO. LTD., in Section 4, Township 54 South, Range 39 East, Plat book 3, Page 39, more particularly described as follows:

That portion of the east $\frac{3}{4}$, of the SW $\frac{1}{4}$ of Section 4, Township 54 South, Range 39 East, less the west 989.93', the south 880', and less the east 35', which lies south the S/ly right-of-way line of State Road #90 (U.S. 41), A/K/A: Tamiami Trail.

LOCATION: Lying south of S.W. 8 Street, between S.W. 152 Avenue and S.W. 153 Place, Miami-Dade County, Florida, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 10 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and at which time the applicant proffered a Declaration of Restrictions which among other things provided:

1. Landscape Buffer: That a landscape buffer will be provided along the Southern and Western perimeters of the property. The buffer will be 15' wide; and will include trees from any of the following categories:

- a. *Duranta reopens/golden dewdrop*; 8' high at planting
- b. *Tabebuia Caraiba* or *heterophylla/yellow/ pink tabebuia* 10' high at time of planting
- c. *Lysiloma sabicu/tamarind*: 12'-15' high at planting
- d. *Casasia clusiifolia/seven-year apple*: 8' high at planting
- e. *Conocarpus erectus/silver buttonwood*: 10'-12' high at planting
- f. *Cordial sebestena/Geiger tree (orange)*: 10'-12' high at time of planting

The trees will be staggered in double rows and installed at a 20' spacing between trees.

WHEREAS, this Board has been advised that the subject application has been reviewed for compliance with concurrency requirements for levels of services and, at this stage of the request, the same was found to comply with the requirements, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested district boundary change to BU-1A (Item #1) would be compatible with the neighborhood and area concerned and would not be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be approved, and that the requested deletions of Declaration of Restrictions recorded in Official Record Book 20979, Page 997-1004, last modified by a Declaration of Restrictions recorded in Official Record Book 22176, Pages 2700-2704 (Item #2) and of the Covenant Proviso accepted pursuant to Resolution No. CZAB10-13-07, passed and adopted by Community Zoning Appeals Board #10, which accepted a proffered Declaration of Restrictive Covenant, hereinafter the "covenant proviso" (Item #3) would be compatible with the area and its development and would conform with the requirements and intent of the Zoning Procedure Ordinance, and that the proffered Declaration of Restrictions should be accepted, and

WHEREAS, a motion to accept the proffered Declaration of Restrictions, approve Item #1, approve Items #2 and 3 under Section 33-311(A)(7), deny Items #2 and 3 under Section 33-311(A)(17) was offered by Jose Garrido, seconded by Jorge Barbontin, and upon a poll of the members present the vote was as follows:

George A. Alvarez	absent	Julio R. Caceres	aye
Jorge Barbontin	aye	Jose Garrido	aye
		Ruben Pol III	aye
Carlos A. Manrique	absent		

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 10, that the requested district boundary change to BU-1A (Item #1) be and the same is hereby approved and said property is hereby zoned accordingly.

BE IT FURTHER RESOLVED that the requested deletions of Declaration of Restrictions recorded in Official Record Book 20979, Page 997-1004, last modified by a Declaration of Restrictions recorded in Official Record Book 22176, Pages 2700-2704 (Item #2) and of the Covenant Proviso accepted pursuant to Resolution No. CZAB10-13-07, passed and adopted by Community Zoning Appeals Board #10, which accepted a proffered Declaration of Restrictive Covenant, hereinafter the "covenant proviso" (Item #3) be and the same are hereby approved under 33-311(A)(7).

BE IT FURTHER RESOLVED that Items #2 and 3 be and the same are hereby denied without prejudice under section 33-311(A)(17).

BE IT FURTHER RESOLVED that, pursuant to Section 33-6 of the Code of Miami-Dade County, Florida, the County hereby accepts the proffered covenant and does exercise its option to enforce the proffered restrictions wherein the same are more restrictive than applicable zoning regulations.

BE IT FURTHER RESOLVED, notice is hereby given to the applicant that the request herein constitutes an initial development order and does not constitute a final development order and that one, or more, concurrency determinations will subsequently be required before development will be permitted.

The Director is hereby authorized to make the necessary changes and notations upon the maps and records of the Miami-Dade County Department of Planning and Zoning and to issue all permits in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 13th day of November, 2008.

Hearing No. 08-11-CZ10-1

ej

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Earl Jones, as Deputy Clerk for the Miami-Dade County Department of Planning and Zoning as designated by the Director of the Miami-Dade County Department of Planning and Zoning and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 10, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB10-41-08 adopted by said Community Zoning Appeals Board at its meeting held on the 13th day of November, 2008.

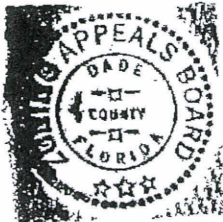
IN WITNESS WHEREOF, I have hereunto set my hand on this the 21st day of November, 2008.

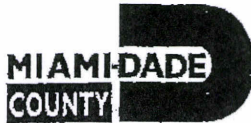
Earl Jones

Earl Jones, Deputy Clerk (3230)

Miami-Dade County Department of Planning and Zoning

SEAL





Carlos Alvarez, Mayor

ADA Coordination
Agenda Coordination
Animal Services
Art in Public Places
Audit and Management Services
Aviation
Building
Building Code Compliance
Business Development
Capital Improvements
Citizens' Independent Transportation Trust
Commission on Ethics and Public Trust
Communications
Community Action Agency
Community & Economic Development
Community Relations
Consumer Services
Corrections & Rehabilitation
Cultural Affairs
Elections
Emergency Management
Employee Relations
Empowerment Trust
Enterprise Technology Services
Environmental Resources Management
Fair Employment Practices
Finance
Fire Rescue
General Services Administration
Government Information Center
Historic Preservation
Homeless Trust
Housing Agency
Housing Finance Authority
Human Services
Independent Review Panel
International Trade Consortium
Juvenile Services
Medical Examiner
Metro-Miami Action Plan
Metropolitan Planning Organization
Park and Recreation
Planning and Zoning
Police
Procurement Management
Property Appraisal
Public Library System
Public Works
Safe Neighborhood Parks
Seaport
Solid Waste Management
Strategic Business Management
Team Metro
Transit
Task Force on Urban Economic Revitalization
Vizcaya Museum And Gardens
Water & Sewer

Planning and Zoning
111 NW 1st Street • Suite 1210
Miami, Florida 33128-1902
T 305-375-2800

miamidade.gov

November 24, 2008

Ferro Development L.L.C.
c/o Miguel Diaz De La Portilla
121 Alhambra Plaza, 10th Fl
Coral Gables, Florida 33134

Re: Hearing No. 08-11-CZ10-1
Location: Lying south of S.W. 8 Street, between S.W. 152 Avenue
and S.W. 153 Place, Miami-Dade County, Florida

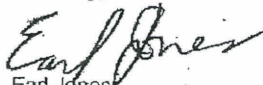
Dear Applicant:

Enclosed herewith is Resolution No. CZAB10-41-08, adopted by the Miami-Dade County Community Zoning Appeals Board 10, which accepted your Declaration of Restrictions and approved your request for a district boundary change to BU-1A (Item #1) and approved Items #2 and 3 on the above described property. Please note the conditions under which said approval was granted, inasmuch as strict compliance therewith will be required. Failure to comply with stipulated conditions, if any, will result in the immediate issuance of a civil violation notice for each condition violated. Each notice issued may require payment of a daily monetary fine.

If, as stipulated in the resolution, building permits and/or use, occupancy or completion certificates will be required, note that permits must be obtained and final inspection approvals received for construction work done or required prior to issuance of the applicable certificate(s) pursuant to Section 33-8 of the Zoning Code. Payment of certificates may be subject to annual renewal by this Department. Application for required permits and/or certificates related to use, occupancy or completion should be made with this Department, or the Building Department as appropriate. At time of permit application you must provide a copy of this resolution. If there are anticipated changes from any plan submitted for the hearing, a plot use plan is to be submitted to this Department in triplicate before any detailed plans are prepared, inasmuch as building permits will not be issued prior to the approval of said plan.

Please note that any aggrieved party may appeal the Board's decision to the Board of County Commissioners, within 14 days from the date of posting on the 11th floor of the Stephen P. Clark Building, 111 N.W. 1st Street, Miami, FL 33128. The date of posting is November 17, 2008. In the event an appeal is filed, any action undertaken during the appeal period is at the applicant's risk.

Sincerely,


Earl Jones
Deputy Clerk

Enclosure

Delivering Excellence Every Day